

BILL LOCKYER, Attorney General
of the State of California
ALEKSANDRA SACHOWICZ, State Bar No. 169597
Deputy Attorney General
California Department of Justice
300 South Spring Street
Los Angeles, CA 90013
Telephone: (213) 897-7336
Facsimile: (213) 897-9395
Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SHLOMIT BERCOVICH, P.T.
18930 Sherman Way # 22
Reseda, California 91355

Physical Therapist License No.: PT 27509,
Respondent.

Case No. 1D 2002 63222

OAH Case No. L2005030649

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Steven K. Hartzell, the complainant in this proceeding, is the Executive
Officer of the Physical Therapy Board of California. He brought this action solely in his official
capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of
California, by Aleksandra Sachowicz, Deputy Attorney General.

2. Shlomit Bercovich, P.T., the respondent in this proceeding, is represented
by attorneys David Samuels and David Shaffer, whose address is 15760 Ventura Boulevard,
Suite 500, Encino, California 91436.

3. On August 2, 2002, the Physical Therapy Board of California issued
Physical Therapist License number PT 27509 to the respondent, which will expire on May 31,

1 2006, unless renewed.

2 JURISDICTION

3 4. The Accusation in this proceeding was filed before the Physical Therapy
4 Board of California ("Board"), Department of Consumer Affairs, and is currently pending against
5 the respondent. The Accusation and all other statutorily required documents were properly
6 served on the respondent. The respondent served her Notice of Defense on March 14, 2005,
7 contesting the charges in the Accusation. (A copy of the Accusation is attached as Exhibit "A"
8 and incorporated herein by reference.)

9 ADVISEMENT AND WAIVERS

10 5. The respondent has carefully read, fully discussed with counsel, and
11 represents that she understands the charges and allegations in the Accusation and the
12 consequences of entering into this Stipulated Settlement and subjecting herself to the
13 Disciplinary Order.

14 6. The respondent represents that she is fully aware of her legal rights in this
15 matter, including the right to a hearing on the charges and allegations in the Accusation; the right
16 to be represented by counsel at her own expense; the right to confront and cross-examine the
17 witnesses against her; the right to present evidence and to testify on her own behalf; the right to
18 the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 7. The respondent voluntarily, knowingly, and intelligently waives and gives
22 up each and every right set forth above.

23 CULPABILITY

24 8. The respondent admits that she published on and through the Internet the
25 text of questions which were utilized, or comprised a part of, the National Physical Therapy
26 Examination which the respondent remembered from the test to obtain her license. In so doing,
27 the respondent infringed the copyright of the Federation of State Boards of Physical Therapy
28 procured for these questions. The respondent was subsequently sued by the Federation and on

1 October 30, 2003, the respondent signed a consent judgment in the in the United States District
2 Court for the Central District of California, in case number CV 03-4921 (RGK) (Mcx), wherein
3 she stipulated that by virtue of the aforementioned conduct she incurred civil liability for
4 violations of the Copyright Act of 1976, the California Uniform Trade Secrets Act (section
5 3426.1 et seq. of the Civil Code) and the terms of her contract with the Federation of State
6 Boards of Physical Therapy.

7 9. The respondent agrees that her Physical Therapist License is subject to
8 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
9 Disciplinary Order below.

10 CIRCUMSTANCES IN MITIGATION

11 10. The respondent cooperated with the Federation of State Boards of Physical
12 Therapy and, rather than litigating the federal action filed against her, entered into a stipulated
13 judgment at an early stage agreeing to cease engaging in the conduct which led to the civil
14 litigation and to the charges in the Accusation.

15 CONTINGENCY

16 11. This Stipulated Settlement is subject to approval by the Physical Therapy
17 Board of California. The respondent represents that she understands and agrees that counsel for
18 the complainant and the staff of the Physical Therapy Board of California may communicate
19 directly with the Board regarding this stipulation and settlement, without notice to or
20 participation by the respondent or her counsel. By signing the stipulation, the respondent
21 represents that she understands and agrees that she may not withdraw her agreement or seek to
22 rescind this stipulation prior to the time the Board considers and acts upon it. If the Board fails
23 to adopt this Stipulated Settlement as its Decision and Order, the Stipulated Settlement and
24 Disciplinary Order shall be of no force or effect, except for this paragraph, and shall be
25 inadmissible in any legal action or proceeding between the parties, and the Board shall not be
26 disqualified from further action by having considered it.

27 12. The parties understand and agree that facsimile copies of this Stipulated
28 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same

1 force and effect as the originals.

2 13. In consideration of the foregoing admissions and stipulations, the parties
3 agree that the Board may, without further notice issue and enter the following Disciplinary Order:

4 DISCIPLINARY ORDER

5 IT IS HEREBY ORDERED that Shlomit Bercovich, holder of Physical Therapist
6 License number. PT 27509 shall be publicly reprovved by the Physical Therapy Board of
7 California for violating Business and Professions Code section 2660, subdivision (l)
8 [unprofessional conduct consisting of the commission of any fraudulent, dishonest, or corrupt act
9 which is substantially related to the qualifications, functions, or duties of a physical therapist] as
10 set forth in the First (and only) Cause For Discipline in the Accusation, a copy of which is
11 attached as Exhibit "A" and hereby incorporated by reference as if fully set forth.

12 IT IS FURTHER ORDERED that the respondent shall reimburse the Physical
13 Therapy Board the amount of \$1,017.30 (one-thousand-seventeen dollars) for the costs of the
14 investigation and prosecution of the above-entitled matter, payable within ninety (90) days of the
15 effective date of the Board's Order.

16 The payment of these costs by the respondent is not excused or tolled by her
17 absence from the State of California. Failure to pay these costs timely shall constitute a violation
18 of the Board's Order and subject the respondent to charges and disciplinary action pursuant to the
19 provisions of Business and Professions Code section 2661.5 and other statutes and laws, unless
20 the Board agrees in writing to a revised payment plan on account of the respondent's financial
21 hardship.

22 The filing of bankruptcy by the respondent shall not relieve her of responsibility to
23 reimburse the Board for these investigation and prosecution costs.

24 The respondent's physical therapist license may not be renewed unless she fully
25 pays the investigation and prosecution costs as set forth above.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, David M. Samuels and David B. Schaffer. I understand its terms and its consequences. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physical Therapy Board of California.

DATED: July 21, 2005.

Original Signed By:
SHLOMIT BERCOVICH, P.T.
Respondent

I have read and fully discussed with my client, Shlomit Bercovich, the terms and conditions of this Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: July 21, 2005

Original Signed By:
DAVID M. SAMUELS
Attorney for Respondent

Original Signed By:
DAVID B. SCHAFFER
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

DATED: July 21, 2005.

BILL LOCKYER, Attorney General
of the State of California

Original Signed By:
ALEKSANDRA SACHOWICZ
Deputy Attorney General

Attorneys for Complainant

PUBLIC REPROVAL

Respondent's California Physical Therapy License No. PT-27509 is publicly reprovved for violating Business and Professions Code sections 2660, subdivision (1), by engaging in unprofessional conduct consisting of the commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist. You infringed the copyright of the Federation of State Boards of Physical Therapy by publishing on and through the Internet the text of the actual questions for questions utilized in the National Physical Therapy Examination which you took to qualify for your license.

Exhibit “A”

Accusation (Case No. 1D 2002 63222)

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SHLOMIT BERCOVICH, P.T.
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Physical Therapist License No.: PT 27509,

Respondent.

Case No. 1D 2002 63222

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DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 21, 2005.

It is so ORDERED on October 21, 2005.

Original Signed By:

DONALD A. CHU, P.T., PRESIDENT
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS